

Notice of Allowability

Application No.

10/662,651

Examiner

Gregory S. Emch

Applicant(s)

STROOPER ET AL.

Art Unit

1649

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims before allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment dated 06 Nov 2006 and the interviews dated 09 Jan 2007 and 10 Jan 2007.

2. ☒ The allowed claim(s) is/are 32,44,46,49-51 and 54-57.

3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☒ All b) ☐ Some* c) ☐ None of the:

1. ☒ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. ____.

3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.

(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached

1) ☐ hereto or 2) ☐ to Paper No./Mail Date ____.

(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date ____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)

2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3. ☐ Information Disclosure Statements (PTO/SB/08),

Paper No./Mail Date ____

4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

5. ☐ Notice of Informal Patent Application

6. ☐ Interview Summary (PTO-413),

Paper No./Mail Date ____

7. ☒ Examiner's Amendment/Comment

8. ☒ Examiner's Statement of Reasons for Allowance

9. ☐ Other ____.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicants, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in telephone interviews with Allen C. Turner on 09 January 2007 and 10 January 2007.

The application has been amended as follows:

In the claims:

Claims 20-22, 24 and 26-29 were canceled.

In claim 32, line 1, "pharmaceutical" was deleted.

In claim 32, line 8, --protein-- was added after "transmembrane".

In claim 44, line 2, "membrane" was deleted and replaced by --transmembrane--.

In claim 46, line 2, "membrane" was deleted and replaced by --transmembrane--.

In claim 49, line 1, "pharmaceutical" was deleted.

In claim 50, line 1, "pharmaceutical" was deleted.

In claim 51, line 1, "A" was deleted and replaced by --An--.

In claim 51, line 1, --in vitro-- was added after "An".

In claim 51, line 2, "membrane" was deleted and replaced by --transmembrane--.

In claim 51, line 3, "administering" was deleted and replaced by --adding--.

In claim 51, line 3, "means" was deleted and replaced by --compound--.

In claim 51, line 4, "membrane" was deleted and replaced by --transmembrane--.

In claim 51, line 4, "means" was deleted and replaced by --compound--.

In claim 51, line 7, "membrane" was deleted and replaced by --transmembrane--.

Claims 44, 46, 49, 50 and 54-57 are directed to allowable products. Pursuant to the procedures set forth in MPEP § 821.04(b), claims 32 and 51, directed to the process of making or using the allowable product, previously withdrawn from consideration as a result of a restriction requirement, are hereby rejoined and fully examined for patentability under 37 CFR 1.104. Claims 20-22, 24 and 26-29 directed to the invention(s) of making or using the allowable products do not require all the limitations of an allowable product claim have NOT been rejoined and have been canceled herein.

Because a claimed invention previously withdrawn from consideration under 37 CFR 1.142 has been rejoined, **the restriction requirement between groups VI and VII as set forth in the Office action mailed on 05 April 2005 is hereby withdrawn.** In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no

longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

The following is an examiner's statement of reasons for allowance: Claims 32 and 51 were rejoined and amended after a discussion with Attorney Turner. Such did not raise any new grounds of rejection, and the claims were supported by the specification as originally filed at p.9, lines 24-27, for example. The examiner's amendment to the claims was made to correct typographical errors and to clarify the scope of the claims.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

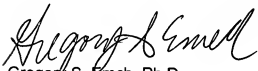
Art Unit: 1649

Advisory Information

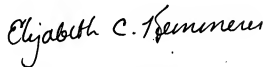
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory S. Emch whose telephone number is (571) 272-8149. The examiner can normally be reached on Monday through Friday from 9AM to 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janet L. Andres can be reached at (571) 272-0867. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gregory S. Emch, Ph.D.
Patent Examiner
Art Unit 1649
10 January 2007



ELIZABETH KEMMERER
PRIMARY EXAMINER